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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-190498

DATE: December 19, 1977

MATTER OF: Rockwell International--Reconsideration

**DIGEST:**

Prior decision, holding protest filed after bid opening as untimely under 4 C.F.R. § 20.2(b)(1) (1977), where bidder protests solicitation which permitted "all or none" bids and 4 of 19 items being procured were on Qualified Products List (QPL), which was apparent from solicitation, is affirmed on reconsideration as number of firms on QPL is irrelevant, since protester was not on QPL and, therefore, could not bid on "all or none" basis.

Rockwell International (Rockwell) has requested reconsideration of our decision in the matter of Rockwell International, B-190498, November 15, 1977, in which we held untimely Rockwell's protest under solicitation No. FTAP-B4-95026 issued by the General Services Administration (GSA).

Rockwell's protest was based on the contention that GSA improperly included four items in the solicitation, soliciting bids on 19 portable electric power tools, which were effectively sole-source items to Black & Decker Manufacturing Company (B&D) as the only firm on the Qualified Products List (QPL) for these four items. B&D submitted the low bid under the solicitation on an "all or none" basis. Rockwell contends that these four items should not be awarded but negotiated sole-source with B&D and that the award for the remaining items should be made to Rockwell based on its low "all or none" bid excluding the four sole-source items.

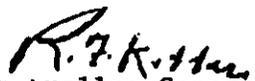
We found the protest to be untimely filed under 4 C.F.R. § 20.2(b)(1) of our Bid Protest Procedures (4 C.F.R. part 20 (1977)) which requires protests based upon alleged improprieties apparent prior to bid opening to be filed prior to bid opening. The solicitation permitted "all or none" bids and stated that the four items were restricted to sources on the QPL and, therefore, we stated Rockwell should have known that B&D could bid as it did under the terms of the solicitation.

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Rockwell's request for reconsideration is based on its contention that, under the QPL program, the names of products being tested for the list cannot be disclosed until they have been added to the list and, therefore, another bidder could have qualified and been added to the QPL a few hours before bid opening.

Our prior decision was not based on the number of firms on the QPL but merely that the QPL program was being used in a solicitation which permitted "all or none" bids. Disregarding the number of firms on the QPL, the point of the prior decision was that a firm not on the QPL could not bid "all or none," which was evident from the time of the issuance of the solicitation. This was the reason we noted that Rockwell had bid in a similar manner on two past GSA procurements where Rockwell was on the QPL. While Rockwell states, in its request for reconsideration, that two other firms were also on the QPL, this does not change the result of the prior decision. Any firm not on the QPL was restricted from bidding on an "all or none" basis while the QPL firms had this option.

Accordingly, our prior decision is affirmed.

  
Deputy Comptroller General  
of the United States